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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,827	07/17/2003	Howard C. Willauer JR.	5226A	1996

7590

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EXAMINER

JUSKA, CHERYL ANN

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/621,827	Applicant(s) WILLAUER, HOWARD C.	
	Examiner Cheryl Juska	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-30,32 and 34-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-30,32 and 34-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed November 22, 2005, has been entered. Claims 21, 27-29, and 32 have been amended as requested. Claims 1-20, 31, 33, and 37-46 have been cancelled.

Thus, the pending claims are 21-30, 32, and 34-36.

2. Said amendment is sufficient to overcome the 112, 2nd rejections set forth in sections 1-5 of the last Office Action. Additionally, applicant's amendment and arguments thereto are sufficient to overcome the rejections based upon the cited Waite reference as set forth in sections 8 and 10 of the last Office Action. Specifically, the claims limit the pattern of pile yarns to being "durable" which is explicitly defined in the specification, page 4, lines 8-16 as being capable of withstanding home laundering without significant pattern loss. Since the art of Waite does not teach such a "durable" pattern, the rejections are hereby withdrawn.

3. Additionally, applicant's arguments with respect to the cited Cogovan patent (Amendment, page 8, 3rd paragraph), have been found persuasive. As such, said patent is withdrawn from the rejections set forth below.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 21-30, 32, and 34-36 stand rejected under 35 USC 103(a) as being unpatentable over US 2,563,259 issued to Miller, US 3,917,883 issued to Jepson, and/or US 6,247,215 issued

Art Unit: 1771

to Van Alboom et al. in view of the cited Waite patent and/or US 3,999,940 issued to Freeman as set forth in section 11 of the last Office Action.

In the alternative, said claims are rejected over the cited Waite and/or Freeman patents in view of the cited Miller, Jepson, and/or Van Alboom patents as set forth in section 11 of the last Office Action.

Response to Arguments

6. Applicant's arguments filed with the amendment have been fully considered but they are not persuasive.

7. Applicant traverses the rejections based upon the cited Miller patent by asserting that one would not modify the Miller invention as suggested since (a) there is no way to control the orientation of bi-colored flock fibers upon depositing said flock onto an adhesive coated substrate and (b) a dyeing step intermediate to the flocking process and the pile orientation step would interfere with said orienting step since said step requires the adhesive to be unset (Amendment, page 7, 2nd paragraph). In response, it is argued that one could dye or print the pile fibers after the flocking and orienting processes to produce the claimed invention. Therefore, applicant's argument is found unpersuasive and the Miller rejections are maintained.

8. Regarding the Jepson rejections, applicant asserts that modifying the Jepson invention as suggested would be contrary to the intent of producing a pile fabric more resistant to "bruising" (Amendment, paragraph spanning pages 7-8). The examiner respectfully disagrees.

Specifically, while Jepson desires a fabric resistant to "bruising," this is achieved by producing a pile fabric having flattened pile fibers that are less susceptible to bruising due to their less than

Art Unit: 1771

upright position, while producing various design effects. Thus, Jepson's goal is create "design interest" that resists use defects. Modification of Jepson with bi-colored pile fibers would not destroy the intent of Jepson, but rather enhance said intent. Therefore, applicant's argument is found unpersuasive and the Jepson rejections are maintained.

9. Applicant traverses the Van Alboom rejection by asserting that the printing step of the reference would destroy the bi-colored pile fibers (Amendment, page 8, 1st paragraph). This is unpersuasive since said printing step can be employed to produce said bi-colored pile fibers rather than to print over said fibers. Therefore, applicant's argument is found unpersuasive and the Van Alboom rejections are maintained.

10. Applicant traverses the reliance upon the Waite reference in the above rejections by reiterating that the Waite invention does not produce a durable pattern (Amendment, page 8, 2nd paragraph). In response, it is noted that in the present rejection Waite is merely relied upon to teach the colored pile and not a patterned pile orientation. Hence, applicant's argument is found unpersuasive and the rejections based upon Waite are maintained.

11. Regarding the Freeman reference, applicant fails to present arguments. As such, said rejections are hereby maintained.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

Art Unit: 1771

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cj
February 1, 2006


CHERYL A. JUSKA
PRIMARY EXAMINER